

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CHARLES VERDEL FARNSWORTH ,

Plaintiff,

v.

SANDRA CARTER, *et al.*,

Defendants.

Case No. C05-5139FDB

REPORT AND  
RECOMMENDATION

**NOTED FOR:  
APRIL 29<sup>th</sup>, 2005**

This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. Before the court is plaintiff's motion for a temporary injunction. (Dkt. # 11).

FACTS

Plaintiff asks the court to prevent defendants from removing a television set from his cell. (Dkt. # 11). Defendants have responded and the motion is ripe for review. (Dkt. # 15). The response provides some operative facts. Plaintiff rents a television set from the state. On January 10<sup>th</sup> defendant Carter issued a memo notifying plaintiff that if he wished to continue renting the

1 television set the cost would be 9 dollars per quarter for the television and 3 dollars per quarter for a  
 2 "converter box". (Dkt. # 15). Plaintiff lacks funds to rent and has filed this action contesting the  
 3 change in policy.

#### 4 DISCUSSION

5 The basic function of injunctive relief is to preserve the status quo ante litem pending a  
 6 determination of the action on the merits. Los Angeles Memorial Coliseum Com'n v. National  
 7 Football League, 634 F.2d 1197, 1200 (9<sup>th</sup> Cir. 1980). A party seeking injunctive relief must fulfill  
 8 one of two standards, the "traditional" or the "alternative." Cassim v. Bowen, 824 F.2d 791, 795 (9<sup>th</sup>  
 9 Cir. 1987).

10 Under the traditional standard, a court may issue preliminary relief if it finds that (1) the  
 11 moving party will suffer irreparable injury if the relief is denied; (2) the moving party will  
 12 probably prevail on the merits; (3) the balance of potential harm favors the moving party; and  
 13 (4) the public interest favors granting relief. . . . Under the alternative standard, the moving  
 party may meet its burden by demonstrating either (1) a combination of probable success and  
 the possibility of irreparable injury or (2) that serious questions are raised and the balance of  
 hardships tips sharply in its favor.

14 Id. (citations omitted).

15 Plaintiff fulfills neither test. Plaintiff has not shown any constitutional right to a television or  
 16 that he will suffer any injury if the television is removed from his cell. Accordingly, the motion  
 17 should be **DENIED**. A proposed order accompanies this Report and Recommendation.

18 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal rules of Civil Procedure, the  
 19 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed.  
 20 R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of  
 21 appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule  
 22 72(b), the clerk is directed to set the matter for consideration on **April 29<sup>th</sup>, 2005**, as noted in the  
 23 caption.

24 DATED this 29<sup>th</sup> day of March, 2005.

26 /S/ J. Kelley Arnold  
 27 J. Kelley Arnold  
 United States Magistrate Judge